

Washington, effective May 30, 1975, and amended several times effective October 2, 1979, May 29, 1981, April 3, 1987, and October 27, 1989; and based on a determination that Washington is operational in the issues covered by the Washington occupational safety and health plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Parts 1910 and 1926, except as provided in this section. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to:

(1) Enforcement of new Federal standards until the State adopts a comparable standard;

(2) Enforcement of all Federal standards, current and future, in the maritime issues covered by 29 CFR Parts 1915, 1917, 1918, and 1919 (shipyards, marine terminals, longshoring, and gear certification), and enforcement of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments, as they relate to employment under the exclusive jurisdiction of the Federal government on the navigable waters of the United States, including but not limited to dry docks or graving docks, marine railways or similar conveyances (*e.g.*, syncrolifts and elevator lifts), fuel operations, drilling platforms or rigs, dredging and pile driving, and diving;

(3) Complaints and violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660(c));

(4) Enforcement in situations where the State is refused entry and is unable to obtain a warrant or enforce its right of entry;

(5) Enforcement of unique and complex standards as determined by the Assistant Secretary;

(6) Enforcement in situations where the State is unable to exercise its enforcement authority fully or effectively;

(7) Enforcement of occupational safety and health standards within the borders of all military reservations;

(8) Enforcement at establishments of employers who are federally recognized Indian Tribes or enrolled members of

these Tribes—including establishments of the Yakama Indian Nation and Colville Confederated Tribes, which were previously excluded by the State in 1987 and 1989 respectively—where such establishments are located within the borders of Indian reservations, or on lands outside these reservations that are held in trust by the Federal government for these Tribes. (Non-member private sector or State and local government employers located within a reservation or on Trust lands, and member employers located outside the territorial boundaries of a reservation or Trust lands, remain the responsibility of the State.);

(9) Investigations and inspections for the purpose of evaluation of the Washington plan under sections 18(e) and (f) of the Act (29 U.S.C. 667(e) and (f)); and

(10) Enforcement of occupational safety and health standards with regard to all Federal government employers and employees; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(b) The OSHA Regional Administrator will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Washington.

[65 FR 36621, June 9, 2000, as amended at 69 FR 20829, Apr. 19, 2004]

§ 1952.123 Developmental schedule.

The Washington State plan is developmental. The following is the developmental schedule as provided by the plan:

(a) Introduction of the legislation in the 1973 Legislative Session;

(b) Public hearings and promulgation of occupational safety and health standards within 1 year after the proposed standards are found to be at least as effective by the Secretary of Labor;

(c) Promulgation and adoption of rules and regulations concerning procedures for assuming all obligations and functions arising from the legislation within 1 year of its effective date;

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(d) Development and implementation of a data processing system (M.I.S.) 6 months after approval of the plan;

(e) Achievement of training objectives by December 31, 1973;

(f) Upgrading of the Division of Safety personnel following legislative action on recommendations submitted to the 1973 Legislature.

§ 1952.124 Completion of developmental steps and certification.

(a) In accordance with the requirements of §1952.123(a) the Washington Industrial Safety and Health Act of 1973, hereinafter referred to as WISHA (S.B. 2386, RCW chapter 49.17), signed by the Governor on March 9, 1973, effective on June 7, 1973, was approved July 3, 1974 (39 FR 25326).

(b) In accordance with the requirements of §1952.10, the Washington State Poster submitted on October 6, 1975, was approved by the Assistant Secretary on December 17, 1975. In accordance with the State's formal assurance, the poster was revised, effective June 1, 1982, to specify that public employees can only file discrimination complaints with the State because Federal jurisdiction under section 11(c) of the Act does not apply to State public employees. This revised poster was approved by the Assistant Secretary on August 3, 1983.

(c) The Washington State Compliance Operations Manual, modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, October 20, and December 1980, and was approved by the Assistant Secretary on January 26, 1982. A March 1, 1983, revision to the manual which provided clarification of the difference between temporary and permanent variances in accordance with State formal assurances was approved by the Assistant Secretary on August 3, 1983.

(d) In accordance with §1952.123(c), Washington regulations covering Re-assumption of Jurisdiction were adopted by June 7, 1974, and were approved by the Assistant Secretary on March 19, 1976.

(e) In accordance with §1952.123(e) Washington has completed the training as described in this section.

(f) In accordance with §1952.123(d) Washington has developed and implemented a computerized Management Information System.

(g) In accordance with §1952.123(f) Washington has completed the upgrading of salaries of safety personnel.

(h) In accordance with §1952.123(c) Washington has adopted rules and regulations covering recordkeeping and reporting requirements.

(i) An industrial hygiene operations manual, effective March 1, 1980, with revisions effective July 1 and September 21, 1981, modeled after the Federal manual was approved by the Assistant Secretary on January 26, 1982.

(j) In accordance with §1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazards and discrimination, posting of citations and notices, effective May 14, 1975, and revisions effective December 31, 1980, and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules effective April 4, 1975, governing practice and procedure for contested cases with revision effective March 26, 1976. These regulations and rules were approved by the Assistant Secretary on January 26, 1982. In accordance with State formal assurances the State added provision to the regulations effective July 11, 1982, to require posting of redetermination notices, settlements, notices related to appeals; deleting an incorrect reference to administrative hearing procedures used in workers compensation cases; requiring settlement agreements to address abatement dates and penalty payments; and deleting a requirement to put discrimination complaints in writing. These changes were approved by the Assistant Secretary on August 3, 1983.

(k) In accordance with §1902.34 of this chapter, the Washington occupational safety and health plan was certified effective January 26, 1982, as having completed all developmental steps specified in the plan as approved on January 26,